IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1815 OF 2005

Jayant Budha Pujari ...Petitioner

Versus

Subhash Kishan Chavan & Ors. ...Respondents

.....

Mr. D.M. Gupte, counsel for Petitioner

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CORAM: B. H. MARLAPALLE, J.

DATED: 27TH APRIL, 2005

P. C.:-

1. Special Civil Suit No. 889 of 2001 has been filed by the present respondent No.1 and the present petitioner is the defendant No.1 in the said suit. The possession of the suit property has been sought and it is admitted that it was covered under the Maharashtra Rent Control Act, 1999. An application under Order XIV Rule 2 r.w. Section 9A of C.P.C. was filed praying for framing of the preliminary issue regarding the jurisdiction to entertain and try the suit. The said application has been rejected by the impugned order dated 22.11.2004. If the application submitted by the petitioner would have been allowed, the suit could have been finally disposed of as not maintainable and therefore, under the proviso to Section 115(1) a Revision would lie

against the impugned order. This view is supported by the decision of a Division Bench of this Court in the case of **Chandu Jagannath Ambekar & Anr Vs. Digambar Kisanrao Kulkarni & Ors. [2004(4) Mh.L.J. 69].**

2. The petition is, therefore, disposed of with liberty to file Civil Revision Application under Section 115 of C.P.C..

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